

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
May 11, 2004**

PLACE: Room 206  
Town Hall

TIME: 8:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:  
Damanti, Forman, Conze, Kenny, Bigelow, Spain

STAFF ATTENDING: Keating, Ginsberg

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Chairman Damanti read the following agenda item:

**Requested extension of Business Site Plan #68-D (2), Stop & Shop Supermarket, 148 Heights Road.** Requested one-year extension of recent approval to install a 24' x 48' greenhouse on a temporary basis.

The Commission members reviewed the request for the extension and agreed that the temporary greenhouse approval would start in 2005 and remain in effect through the 2006 season. After 2006, they would need to come back to the Planning & Zoning Commission for a renewal or a new permit. The following motion was made: that the Commission approve the extension so that the approval is valid for the 2005 and 2006 seasons. The motion was made by Mr. Kenny, seconded by Mr. Bigelow and unanimously approved. Commission members noted that if there is no substantive change in the use or the tenants of the space or in the site conditions or in the safety aspects, it would be easy to renew the permit in 2006 so that it would be valid again for 2007.

Chairman Damanti read the following agenda item:

**Flood Damage Prevention Application #207, David & Anne Campbell, 27 Shipway Road.** Proposing to construct additions and alterations to the existing residence. The subject property is situated on the south side of Shipway Road approximately 500 feet east of the intersection of Shipway Road and Plymouth Road and is shown on Tax Assessor's Map #55 as Lot #127, and located in an R-1 (residential) Zone.

Commission members noted that under Section 828 of the Zoning Regulations, the applicant has reviewed the plans with all of the neighboring property owners and all those neighbors have signed the form indicating that they have no objection to the proposal and waive their right to attend the public hearing. The applicant has also submitted engineering certification that the proposed construction activity will not adversely impact flooding conditions and has been designed with all mechanical equipment to be moved up from the basement so that it will be out of harms way during a flood condition. The following motion was made: that the Commission approve the project, subject to the standard conditions for construction work within a flood hazard area. The motion was made by Mr. Conze, seconded by Mrs. Forman and unanimously approved.

Chairman Damanti read the following agenda item:

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**Subdivision Application #605, Graham & Bill, LLC, 153 West Avenue.** Proposing to demolish the existing residences on the property and subdivide the existing 2.1+/- acre property into four lots and an open space parcel. The subject property is on the south side of West Avenue, approximately across from its intersection with Old Parish Road, and is shown on Tax Assessor's Map #39, as Lot #108, in the R-1/3 Zone.

The Commission discussed the draft Resolution. The following motion was made: that the Commission waive the process of reading the entire Resolution aloud because each member has had an opportunity to read the draft in advance. The motion was made by Mr. Conze, seconded by Mr. Bigelow and unanimously approved. Several typographical errors and minor corrections were made to the draft. The Planning & Zoning Commission realized that they need to add a requirement for screening and planting. That requirement was discussed and agreed upon. The following motion was then made: that the Commission adopt the following Resolution to approve the project subject to a number of conditions and stipulations:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
May 11, 2004**

Application Number: Subdivision Application #605

Tax Assessor's Map #39 Lot #108

Name and Address of Property Owner:      Graham & Bill, LLC  
69 Grove Street  
New Canaan, CT 06840

Name and Address of Applicant's Representative:      Robert F. Maslan, Jr., Esq.  
And Applicant:      Maslan Brown & Associates, LLP  
9 Old King's Highway South  
Darien, CT 06820

Activity Being Applied For: Proposing to demolish the existing residences on the property and subdivide the existing 2.1+/- acre property into four lots and an open space parcel.

Property Location: The subject property is on the south side of West Avenue, approximately across from its intersection with Old Parish Road.

Zone: R-1/3 Zone

Date of Public Hearing: April 27, 2004

Time and Place: 8:00pm      Room 206      Darien Town Hall

Publication of Hearing Notices  
Dates: April 15 & 22, 2004

Newspaper: Darien News-Review

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Date of Action: May 11, 2004

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:  
May 20, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400 and 840 of the Darien Zoning Regulations and all sections of the Subdivision Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted subdivision plans, and the testimony contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject parcel is 2.1+/- acres. There are currently four houses and a barn on the lot, and the plan is to subdivide the property so that there will be a total of four building lots and an open space area. All of the lots will be served by one shared driveway (one curb cut from West Avenue) and served by Town water and sewer.
2. The Planning & Zoning Commission met on February 3, 2004 to discuss the subdivision on a preliminary basis. A subdivision study was prepared to reflect that the subject property could be subdivided into four "conventional" lots under the Darien Subdivision Regulations. In this case, a conservation subdivision is being proposed. This conservation subdivision will preserve a wetland area and regulated area adjacent to Stony Brook, natural topography along West Avenue, a large evergreen tree and a ledge outcropping.
3. As noted by the applicant, minor adjustments are needed to make this conservation subdivision feasible, including: Lot areas slightly smaller on Lot #4 (14,051 in lieu of the required 14,520 square feet); and lot widths slightly smaller on Lots #1 and #4 (75 and 72 feet respectively, in lieu of the required 80 feet). No setback adjustments are necessary, and none are granted. All other aspects of the development shall comply fully with the R-1/3 Zoning Regulations.
4. Because the property now has 198+/- feet of frontage, at least two feet of frontage must be created in order to have the minimum required frontage for each lot.
5. The schematic residences shown on the Subdivision Site Plan for each of the lots are for general planning purposes only, and are not meant to show a specific house design or location. The owners of the properties might construct houses and other structures according to the Zoning Regulations that are not the same size or in the same location as shown on the conceptual site plan.

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6. During the public hearing, the applicant noted that a conservation easement is being proposed along the front of the property, approximately 40' x 100'.
7. A .317+/- acre open space piece of land along the east corner of the property is being preserved as permanent undeveloped area. The open space parcel shall be owned by either: all of the owners of all of the lots, or just one of those owners. It shall be subject to a restrictive covenant to permanently preserve it as open space.
8. The wetlands to the rear (southeast) of the property are not proposed to be developed or altered. Any work within 50 feet of inland wetlands requires review and approval from the Environmental Protection Commission.

NOW THEREFORE BE IT RESOLVED that Subdivision Application #605 is hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The subdivision shall be in accordance with the following plans submitted to and reviewed by the Commission, as required to be modified herein:
  - Gregors Well Proposed Site Improvement Plan for a 4 Unit Conservation Subdivision, by Land-Tech Consultants, Inc., dated 3/19/04.
  - Details & Notes, by Land-Tech Consultants, Inc., dated 3/19/04.
  - Conservation Subdivision Gregors Well, by Ryan and Faulds, LLC, scale 1"=30', dated March 24, 2004.
- B. As noted during the public hearing, plans shall be revised to reflect a 40' x 100' conservation easement across the front of the property. Because the applicant has specifically shown the evergreen tree to be preserved, and noted that it is one of the natural features to be preserved as part of the conservation subdivision, a conservation easement or other protection mechanism shall be created to ensure that the tree is preserved.
- C. All utilities serving this property shall be underground. These include, but are not limited to, electrical, telephone, cable TV, and all other wiring.
- D. Since there is no new road construction, the Commission waives the requirement for submission of a Performance Bond for road construction.
- E. A note shall be added to the mylar and final plans reflecting provisions for drainage as required by Article III, Section A 3(i) of the Darien Subdivision Regulations.
- F. Plans shall be modified to reflect a row of landscaping/screening on Lot 4 (the lot on the northeastern part of the property), as referenced on page 5 of the April 27, 2004 Planning & Zoning Commission meeting minutes in order to provide some screening to the adjacent Carroll and Forte properties. Revised plans shall be submitted to reflect this change, and are subject to review and final approval by the Planning & Zoning Director.
- G. Lot numbers and street addresses shall be verified with the Tax Assessor. Those should be included on the final mylar for filing.

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- H. Final review by the Fire Marshal shall be obtained regarding the turn-around and the location of the fire hydrant. In order to provide safe access at all times, the fire hydrant and turn around must be provided as part of the construction of the first new house.
- I. In accordance with Article IV Section C 1-6 of the Darien Subdivision Regulations, the Open Space shall be subject to an Open Space Declaration that shall be filed in the Darien Land Records concurrent with the filing of the Subdivision Map. The open space parcel shall be owned by: all of the owners of all of the lots or just one of those owners. It will be subject to a restrictive covenant to permanently preserve it as open space. That Declaration and the Conservation Easement are subject to final review and approval by Town Counsel.
- J. In order to comply with the Darien Zoning Regulations, all structures on the property must be razed prior to filing the required mylar in the Darien Land Records.
- K. The drainage shown on the plans and presented at the public hearing is conceptual. Final drainage designs must be submitted with Zoning and Building Permits for each residence as it is proposed. They must be reviewed by the Public Works Department prior to the permit being issued. Also prior to the first Zoning and Building Permit for the property, such vegetation along West Avenue shall be removed as shown on the plans as required to achieve a proper sight line. A sewer connection permit is also required for this project.
- L. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans noted in Item A, above, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- M. This subdivision approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. Prior to commencing development activities involving the curb cut into West Avenue, the applicant shall obtain a curb cut approval from the Darien Public Works Department, and shall provide a copy to the Commission.
- N. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the approval and/or permit as it deems appropriate.

All provisions and details of the plan, as required to be modified herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. All completed requirements and materials (the Open Space Declaration, revised plans, and the final revised mylar with Lot numbers and street

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addresses), shall be completed and submitted to the Planning and Zoning Department within 60 days of this action or this approval shall become null and void.

The motion was made by Mr. Kenny and seconded by Mr. Bigelow and unanimously approved.

Chairman Damanti read the following agenda item:

**Flood Damage Prevention Application #206, Land Filling & Regrading Application #118, John & Marion Holmgren, 10 Cross Road.** Proposing to demolish existing residence and construct a new single-family residence with associated septic system, pool, driveway, walks and terraces and perform related site development activities within a regulated area. The subject property is located on the north side of Cross Road approximately 350 feet west of its intersection with Homewood Lane, and is shown on Tax Assessor's Map #65 as Lot #2, R-1 Zone.

The following motion was made: that the Commission waive the process of reading the entire Resolution aloud because each member has had an opportunity to review the draft Resolution in preparation for the meeting. The motion was made by Mr. Bigelow, seconded by Mr. Kenny and unanimously approved.

In the discussion that followed, the Commission members noted that they would require pre-blast and post-blast surveys of adjacent properties.

The following motion was made: that the Commission adopt the following Resolution to approve the application subject to a number of conditions and stipulations:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
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Application Number: Flood Damage Prevention Application #206  
Land Filling & Regrading Application #118

Subject Property: 10 Cross Road  
Tax Assessor's Map #65 Lot #2

Name and Address of Applicant: John & Marion Holmgren  
And Property Owner 10 Cross Road  
Darien, CT 06820

Name and Address of: Teodoro Milone, PE  
Applicant's Representative: Redniss & Mead, Inc.  
22 First Street  
Stamford, CT 06905

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Activity Being Applied For: Proposing to demolish existing residence and construct a new single-family residence with associated septic system, pool, driveway, walks and terraces and perform related site development activities within a regulated area.

Property Location: The subject property is located on the north side of Cross Road approximately 350 feet west of its intersection with Homewood Lane.

Zone: R-1

Date of Public Hearing: April 27, 2004

Time and Place: 8:00 P.M.      Room 206      Town Hall

Publication of Hearing Notices

Dates: April 15 & 22, 2004

Newspaper: Darien News-Review

Date of Action: May 11, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:  
May 20, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 820 and 850 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. This application is a Flood Damage Prevention application under Section 820 and a Land Filling and Regrading Application under Section 850 of the Darien Zoning Regulations to demolish the existing residence and construct a new single-family residence with associated septic system, pool, driveway, walks and terraces and perform related site development activities within a regulated area. It was noted during the public hearing that modifications will be made to decrease the slope of the existing driveway. It was also explained that blasting/drilling may be necessary for the installation of the swimming pool/spa.
2. Approval from the Darien Health Department was received on March 19, 2004 for a code-complying septic system.

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3. Environmental Protection Commission (EPC) approval was obtained for this project on April 21, 2004 (EPC #22-2004). That approval is hereby incorporated by reference. This includes the condition that “the Wetland Planting Plan is an integral part of this approval; therefore, the plantings shall be completed prior to the issuance of a Certificate of Occupancy.”
4. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
6. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties and, therefore, this proposal is consistent with the need to minimize flood damage.
7. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

NOW THEREFORE BE IT RESOLVED that Flood Damage Prevention Application #206 and Land Filling & Regrading Application #118 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The construction and filling & regrading are shown on the plans submitted to the Commission entitled:
  - “Site Development Plan depicting 10 Cross Road, Darien, Connecticut, prepared for John J. Jr. & Marion E. Holmgren”, Drawing SE-1, by Redniss & Mead, scale 1”=20’, last revised 4/27/04.
  - “Site Development Plan depicting 10 Cross Road, Darien, Connecticut, prepared for John J. Jr. & Marion E. Holmgren”, Drawing SE-2 through SE-6, by Redniss & Mead, dated 03/10/04, last revised 04/19/04.
  - Holmgren Residence Floor Plans and Exterior Elevations by Gullans & Brooks Assoc., Inc. dated 04-23-04. These revised house plans reflect the addition of a covered porch along the rear elevation, reducing the size of the northwest corner porch, reducing the size of the breakfast room bump out and relocating the family room 14”.
- B. The Commission requires that pre- and post-blast surveys be done prior to and after any blasting/drilling necessary for the swimming pool/spa. This will protect both the property owner and the neighbors during any blasting/drilling process that may be necessary.
- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after



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the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.

- D. Due to the minor nature of the project, the provision of a Performance Bond is hereby waived.
- E. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (May 10, 2005). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

The motion was made by Mr. Bigelow, seconded by Mr. Kenny and unanimously approved.

**Approval of Minutes**

March 30, 2004          Public Hearing

The following motion was made: that the minutes be approved as presented. The motion was made by Mr. Bigelow, seconded by Mr. Kenny. All voted in favor except Mr. Conze who had not attended the March 30<sup>th</sup> meeting.

April 20, 2004          General Meeting

The following motion was made: that the Commission adopt the minutes as drafted. The motion was made by Mrs. Forman, seconded by Mr. Kenny and unanimously approved.

April 27, 2004          Public Hearing

A minor correction was made to page 4 to clarify a sentence. The following motion was made: that the corrected minutes be adopted. The motion was made by Mrs. Forman, seconded by Mr. Bigelow and unanimously approved.

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**Any Other Business (requires two-thirds vote of Commission).**

Mr. Ginsberg asked the Commission members to discuss 6 matters under other business. They included Cherry Lawn – replacement of playground equipment; Darien Methodist Church; the Henderson/Fritts subdivision on Goodwives River Road; outside dining; Royle Road – division of property; and parking regulations. The following motion was made: that the Commission discuss the 6 items under other business. The motion was made by Mrs. Forman, seconded by Mr. Bigelow and unanimously approved.

**Cherry Lawn Park**

Mr. Ginsberg explained that the Parks & Recreation Department proposes to replace existing playground equipment within Cherry Lawn Park. They have inquired about whether a Mandatory Referral is required under Section 8-24 of the Connecticut General Statutes. This playground equipment is separate and distinct from the Casey Field modifications. The Commission members felt that the Park & Recreation Commission needs to obtain legal counsel's written opinion about whether they need to submit a referral under Section 8-24 of the Statutes. If a referral is submitted, the Commission will process the request.

**Darien Methodist Church**

Mr. Ginsberg explained that the Darien Methodist Church proposes to construct an expanded foyer and additional classrooms for Sunday School use. The Commission members felt that although the project did not appear to have any adverse impacts on the neighborhood, since the additions are sizeable and a church is a Special Permit use, a public hearing would be necessary prior to rendering a decision on the proposed activities. Mr. Ginsberg will inform the church to submit the correct paperwork so that a public hearing can be scheduled.

**Henderson/Fritts Subdivision on Goodwives River Road**

The original subdivision proposal had required that the driveway be realigned prior to the issuance of a Zoning and Building Permit. The applicant has now asked that the Commission modify the approval so that the realignment of the driveway can be roughed in. Then the addition can be constructed and, after the heavy equipment for the addition has finished, they would then put the finished coat of asphalt on the driveway. The Commission members unanimously agreed to the modification to allow the finished coat of asphalt to be installed after the heavy equipment is finished. The finished coat of asphalt must be completed prior to the Certificate of Zoning Compliance or use of the addition.

**Outside Dining**

Commission members discussed recent trends toward small restaurants creating outside dining areas. Mr. Conze remembered when this matter had been on the Commission's agenda about 10 years earlier. The Commission members felt that it is not just a simple matter because Health Code requirements, State Liquor Commission requirements and increased parking requirements would all be issues. Also, pedestrian right-of-way and maintenance and clean-up of the outside dining area

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are important. The Commission should come up with guidelines to allow and encourage outside dining only after specific site plan or Special Permit approval requirements have been satisfied and a hearing has been conducted.

**Royle Road - Division of Property**

Mr. Ginsberg informed the Planning & Zoning Commission that the property on the corner of Mansfield Avenue and Royle Road has been divided into two separate lots. The existing house will be relocated and another house will be constructed. This activity has obtained approval from the Environmental Protection Commission but does not require Planning & Zoning Commission approval.

**Parking Regulations**

There was some discussion about the Board of Selectmen's request to have the Planning & Zoning Commission modify the parking requirements for the Central Business District. The Commission members felt that the update of the Town Plan is the top planning priority and that the study of the downtown parking conditions would be appropriate when circumstances allow. Mr. Damanti and Mr. Ginsberg will meet with First Selectwoman Evonne Klein to discuss this matter.

Mr. Ginsberg mentioned and Mr. Kenny confirmed that new statutes will take effect on July 1, 2004 and that they affect Section 8-26A (Affordable Housing) and Wetlands Commission timing of applications.

There being no further business, the meeting was adjourned at 9:15 p.m.

Respectfully submitted,

David J. Keating  
Assistant Director of Planning & Zoning